

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

January 10, 2001

DIVISION TWO

B140339 People (Not for Publication)

v.
Austin

The Court:

The judgment is affirmed.

Nott, Acting P.J., Cooper, J., Todd, J.

DIVISION THREE

B137444 People (Not for Publication)

v.
Washington

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B143738 People (Not for Publication)

v.
McCraw

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B136255 People (Not for Publication)
v.
Ramos

We order the abstract of judgment be corrected. Upon issuance of the remittitur, the clerk of the Superior Court is to correct the abstract of judgment to reflect that, in addition to the other sentence imposed, appellant was sentenced to three years in prison for violating Penal Code section 12022.5, subdivision (a)(1). In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B136486 All-Tex, Inc. (Not for Publication)
v.
Touch Up. Inc.

The judgment in favor of T&R Drywall on the breach of contract cause of action is reversed. The judgment in favor of Cen-Val Distributor and against Rapaport and T&R Drywall on the account stated cause of action is affirmed. Cen-Val Distributor is awarded costs on appeal.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

B134122 People (Not for Publication)
v.
Jackson

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

DIVISION THREE (Continued)

[illegible]

The judgment is modified to stay the 16 month prison term imposed for Tyson's conviction of violation of Vehicle Code section 10851, subdivision (a). The clerk of the superior court is ordered to prepare an amended abstract of judgment and to forward a corrected copy to the Department of Corrections. The matter is remanded to the trial court for a determination of whether the one-year enhancement pursuant to Penal Code section 12022, subdivision (a) should be stricken pursuant to section 12022, subdivision (f). In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

DIVISION FOUR

B132350 Steven Kalski (Not for Publication)
v.
California Association of Professional Employees et al

The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

DIVISION FIVE

Court convened at 8:00 A.M.

Present: Turner, P.J., Grignon, J., Weisman, J. (Assigned) and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B141190 People v. Abarca
B144397 People v. Pendleton

Argument waived, cause submitted.

B143615 Save the Sunset Strip et al.
 v.
 City of West Hollywood et al.

Merits:
Argued by Joel S. Moskowitz for appellants and by Gregory M. Kunert and James L. Arnone for respondents. Cause submitted.

Court recessed.

Court reconvened at 8:50 A.M.

Present: Grignon, Acting P.J., Armstrong, J., Weisman, J. (Assigned) and Zaida G. Heraldez, Deputy Clerk.

B146372 Los Angeles County, D.C.F.S.
 v.
 Los Angeles Superior Court
 Jaime M.

Merits:
Argued by Doraine Meyer, deputy county counsel, for petitioner, Michael A. Theberge and John McCauley for real party in interest. No appearance by respondent. Cause submitted.

Court recessed.

DIVISION FIVE (Continued)

Court reconvened at 9:25 A.M.

Present: Turner, P.J., Grignon, J., Godoy Perez, J. and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B139655 People v. Michael Carroll

B142148 People v. Daniel Garcia

B140818 People v. Dewayne Mays

B137405 People v. Shashanddra Riley

B137477 D.C.F.S. v. Michael T.

B145789 General Electric Capital Auto Fin., etc v. S.C.L.A. (Harris)

Argument waived, cause submitted.

B139862 Thomas M. Eells
 v.
 William Kwok et al.

Merits:

Argued by Thomas M. Eells for appellant in propria persona and by Holly R. Paul for respondents. Cause submitted.

Court recessed.

Court reconvened at 10:00 A.M.

Present: Turner, P.J., Grignon, J., Godoy Perez, J. and Zaida G. Heraldez, Deputy Clerk.

B142701 People v. Shane P.

Argument waived, cause submitted.

DIVISION FIVE (Continued)

B122979 People
 v.
 Sung Woo

Merits:

Argued by Dennis Fischer for appellant and by Mary Sanchez, deputy attorney general, for respondents. Cause submitted.

Court recessed.

Court reconvened at 11:00 A.M.

Present: Grignon, Acting P.J., Armstrong, J., Godoy Perez, J. and Zaida G. Herandez, Deputy Clerk.

Each of the following:

B138681 People v. Christopher Demorest and Russell Pence
B139603 People v. Donald Chinchilla
B139663 People v. Javier Flores
B140772 People v. Emmanuel McSwain
B144903 Kathleen D. v. S.C.L.A. (D.C.F.S.)

Argument waived, cause submitted.

B136169 Richard Zinniger et al.
 v.
 America's Best Self Service Storage et al.

Merits:

Argued by Ronald Jeffrey Neer for appellants and by Gina Elizabeth Och for respondents. Submission deferred. Cause to be submitted January 15, 2001.

Court recessed.

DIVISION FIVE (Continued)

Court reconvened at 1:00 P.M.

Present: Grignon, Acting P.J., Armstrong, J., Godoy Perez, J. and Zaida G. Heraldez,
Deputy Clerk.

B140561 Henson v. Panlasigui

Argument waived, cause submitted.

B140111 Bruce Boyer et al.
 v.
 Bill Jones

Merits:

Argued by Gero M. Wallace for appellants and by Christopher C. Foley,
deputy attorney general, for respondent. Cause submitted.

B136943 Parvis Setareh et al.
 v.
 Malcolm S. McNeil

Merits:

Argued by Shaun Setareh for appellants and by Marshall A. Coyle for
respondent. Cause submitted.

B138833 Randy Pappas
 v.
 John A. Meaders et al.

Merits:

Argued by Russell S. Balisok for appellant and by Reginald K. Brown and
Michael L. Sloan for respondents. Cause submitted.

Court adjourned.

DIVISION FIVE (Continued)

B142294 Gil Garcetti
B143136 v.
 Superior Court, Los Angeles County
 (Ross Washington, r.p.i.)

Filed order denying petition for rehearing.

DIVISION SIX

Court convened at 9:00 A.M.

Present: Yegan, Acting P.J., Coffee, J., Perren, J. and G. Bents, Deputy Clerk.

B137586 Goldsmith
 v.
 Gomberg

Merits:

Argued by Evan D. Marshall for appellant and by Deborah A. Levine for respondents. Cause submitted.

B139715 Henein
 v.
 Duty

Merits:

Argued by Lawrence M. Schulner for appellant and by Paul W. Burke for respondents. Cause submitted.

B141035 Friends to Restore Earl Warren Showground
 v.
 19th District Agricultural Association

Merits:

Argued by Philip A. Seymour for appellant; by Richard J. Magasin, deputy attorney general, for respondent 19th District Agricultural Association and by Tim Trager for respondent Santa Barbara Hockey Association. Cause submitted.

DIVISION FIVE (Continued)

B136907 Gutierrez
 v.
 Cowell

Merits:

Argued by Kathryn H. Lamat for appellant and by Ray Lewis Fuller for respondent. Cause submitted.

B138293 Williams
 v.
 Cowell

Merits:

Argued by Kathryn H. Lamat for appellant. Argument waived by respondent pursuant to Rule 17(b), Calif. Rules of Court. Cause submitted.

B137570 Leko
 v.
 Cornerstone Building Inspection Service

Merits:

Argued by Natalie Blake for appellants/cross-respondents, by Jeffrey S. Kaplan for respondent Cornerstone Building Inspection Service and by Lindsay Joachim for respondents/cross-appellants D-Way Fireplace Inspections and Crystal Home Inspections. Cause submitted.

Court recessed at 10:55 A.M.

Court reconvened at 1:30 P.M.

Present: Yegan, Acting P.J., Coffee, J., Perren, J. and G. Bents, Deputy Clerk.

B141577 Diamond
 v.
 Parker

Argument continued to February, 2001.

DIVISION FIVE (Continued)

B139023 Peter
 v.
 California Department of Corrections

Argument waived, cause submitted.

B143323 Eade
 v.
 Jackson

Merits:

Counsel stipulates that Presiding Justice Gilbert may participate as a panel member in this case. Argued by Yvonne M. Renefrew for appellants. Argument previously waived by respondent. Cause submitted.

B145245 Thomas E.
 v.
 Santa Barbara County Superior Court
 Child Protective Services

Extraordinary Writ:

Counsel stipulate that Presiding Justice Gilbert may participate as a panel member in this case. Counsel stipulate to proceed on the determination of the petition for writ of extraordinary relief pursuant to Rule 39.1B, Calif. Rules of Court, without dismissal. Presented by Mary Spear, deputy public defender, for petitioner and by Gustavo Lavayen, deputy county counsel, for real party in interest. Cause submitted.

B140007 Tanaka
 v.
 Wall-Mart

Merits:

Counsel stipulate that Presiding Justice Gilbert may participate as a panel member in this case. Argued by Will Tomlinson for appellants and by Gary A. Dordick for respondent. Cause submitted.

DIVISION FIVE (Continued)

B142674 Gramanz
 v.
 Huddy

Merits:

Counsel stipulate that Presiding Justice Gilbert may participate as a panel member in this case. Argued by Ronald E. Landers for appellant and by John Huddy, respondent in propria persona. Cause submitted.

B136062 Weaver
 v.
 Mountaingate Plaza

Merits:

Counsel stipulate that Presiding Justice Gilbert may participate as a panel member in this case. Argued by Richard M. Norman for appellants/cross-respondents Mountaingate and by Gabriele Mezger-Lashly for respondents/cross-appellants Weaver. Cause submitted.

Court adjourned at 3:30 P.M.

DIVISION SEVEN

B135994 Dawn Kougasian
 v.
 Ski Sunrise

Filed order denying petition for rehearing. Johnson, J. would grant.

B122209 Torossian (Not for Publication)
 v.
 Gazarian et al.

The judgment of nonsuit is reversed. Appellant to recover costs on appeal.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B134925 Harrington, Foxx,
Dubrow & Canter, LLP. (Not for Publication)
v.
Sandenhill, Inc.

The judgment is affirmed. Appellant to pay respondent's costs on appeal.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B133488 Goode (Not for Publication)
v.
Fir Lane Funeral Home & Memorial Park Inc.

The court order denying attorney's fees is reversed and the matter is remanded for further proceedings to determine an award for reasonable attorney's fees. Appellant is entitled to costs incurred on this appeal.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B140308 People (Not for Publication)
v.
Jose L. Madrigal, aka Manuel H. Serrano

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

DIVISION SEVEN (Continued)

B141584 Los Angeles County, D.C.F.S. (Not for Publication)

v.

Byron P.

In re Brandon P., a Person coming Under the Juvenile Court Law.

The order of the juvenile court terminating appellant's parental rights to Brandon P. is reversed. On remand, the juvenile dependency court is ordered to: (1) vacate its order terminating appellant's parental rights to Brandon P.; and (2) to conduct proceedings consistent with section 366.26, subdivision (c)(4). This opinion does not alter the order terminating Elnora W.'s (Brandon P.'s birth mother) parental rights. (See Los Angeles County Department of Children and Family Services v. Superior court (Rebecca H.) (2000) 83 Ca.App.4th 947.)

Woods, J.

We concur: Lillie, P.J.

Neal, J.

B136690 Martin et al. (Not for Publication)

v.

Pacificare Health Systems et al.

The judgment is affirmed as to Deborah's wrongful death claim, and as to the interference with prospective advantage claim she pursues as representative of Sean's estate. The judgment is reversed as to Cherie's and Christiann's wrongful death claims, and remanded for further proceedings on those claims. The parties shall bear their own costs on appeal.

Neal, J.

We concur: Lillie, P.J.

Johnson, J.

DIVISION SEVEN (Continued)

B138622 McSporran (Not for Publication)
v.
Tenet Healthcare Corporation et al.

The judgment is affirmed. Respondents shall recover their costs on appeal.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B144840 Daphaine O. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Dept. of Children & Family Services, et al., r.p.i.)

Because substantial evidence supports the juvenile court's order setting a hearing under section 366.26, the petition is denied on the merits.

Neal, J.

We concur: Lillie, P.J.
 Johnson, J.

B138223 People (Not for Publication)
v.
Lewis

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

January 10, 2001-Continued

DIVISION SEVEN (Continued)

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The judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.
Johnson, J.

B141762 Alfaro (Not for Publication)
v.
Workers Compensation Appeals Board
Carlos Meier, Respondent

The decision of the WCAB is annulled and the matter is remanded for further proceedings consistent with this opinion.

Woods, J.

We concur: Lillie, P.J.
Neal, J.

B124969 Tig Insurance Company
v.
Gary Smolker And Alice Smolker

Filed order denying petition for rehearing.

B135561 Richard E. Flowers, Jr.
v.
Regal Biltmore Hotel

Filed order denying petition for rehearing.

DIVISION SEVEN (Continued)

B141660 Cadiz, Inc. (Not for Publication)
v.
Waste Management, Inc., et al.

The order is affirmed in part and reversed in part and remanded with directions. The portion of the order denying the motion to strike the causes of action for interference with business relationships and unfair business practices is affirmed. The portion of the order denying the motion to strike the causes of action for defamation and trade libel is reversed and the matter is remanded to the superior court with directions to grant Waste Management's SLAPP motion to strike the causes of action for defamation and trade libel. Waste Management is awarded costs and attorney's fees on appeal and attorney's fees in connection with its SLAPP motion to strike. Upon remand the superior court is to determine the amount of attorney's fees to be awarded to Waste Management on the SLAPP motion to strike and on appeal. The stay ordered by this court is ordered vacated as of the date this opinion is final as to this court.

Woods, J.

We concur: Lillie, P.J.
Neal, J.